

cery court, the attorney-general shall be the defendant in behalf of the state, &c. but the state not to be burthened with costs.

SEC. 2. *And be it enacted*, That if the creditor of any person dying intestate, and without heirs as aforesaid, shall be out of the state, so that he or she hath not notice of the death of the intestate in time to enter a caveat as aforesaid, and the real estate of the deceased shall be escheated, this state will, upon application of such creditor, pay to the amount received by the state upon such escheat to the discharge of the just claim of such creditor, to be made appear to the satisfaction of the chancellor.

State will pay creditors in certain cases, &c.

CHAPTER 80.

AN ACT to alter and amend the law in certain cases.

Be it enacted by the General Assembly of Maryland, That no action, brought or to be brought, in any court of law in this state, shall abate by the death of either of the parties to such action, but upon the death of any defendant, in a case where the action by such death would have abated before this act, the action shall be continued, and the heir, devisee, executor or administrator, of the defendant, as the case may require, or other person interested on the part of the defendant, may appear to such action; and in case the action be brought to recover possession of any lands, tenements or hereditaments, and the proper person to defend doth not appear at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the heir or devisee of the deceased, or tenant in possession, or other proper person to defend in such action, as the case may require, or in case the action be brought to recover personal chattels, debt or damages, and the executor, administrator, or other proper person to defend, doth not appear to such action at the court at which the death is suggested, the plaintiff may issue a summon, returnable to the next court, directed to the executor or administrator of the deceased, or other proper person to defend such action, to appear; and upon any summon, issued as aforesaid, being served, the person or persons summoned shall appear to such action, either in proper person or by attorney, and if it shall appear to the court that a summon to appear and defend, taken out as aforesaid, hath been served upon the proper person or persons to defend such suit, and that such person or persons neglect or refuse to appear, the court may and shall issue an attachment of contempt against such person or persons, and compel him, her or them, to appear to such suit; and if any person, being summoned as aforesaid, shall refuse or neglect to enter an appearance to such suit by the fourth day of the court next after the court to which such defendant may be summoned

No action shall abate, &c.